

Preserving the Past by Protecting the Present

Terry Lord

Virginia Woolf, the great writer of the early-20th century, once said that “Nothing has really happened until it has been described.” Of course she was speaking as one who “described” through writing prose and poetry and attempted to bring about truth and beauty in literature. But in the broader sense, our history must be given interpretation and described clearly for it to have meaning and to aid us in understanding the present. Protecting our archeological resources is one way in which we give description and context to the past in order that we can actually determine that something really did happen.

As stated in the Archaeological Resources Protection Act (ARPA), one of the purposes of the statute is to **protect and preserve** archeological resources from predators, looters, and thieves. I would like to talk about what it really means to protect and preserve our archeological resources and what these resources mean to all of us as



Trainees and instructors viewing preserved sites, Mesa Verde National Park. Terry Lord at right.

A new training course titled Overview of Archeological Protection Law was begun in October 1992, and held at Mesa Verde National Park, a World Heritage Site. It was designed to provide casework guidance for federal attorneys, solicitors, and general counsels; state attorneys-general; and Tribal attorneys. It is sponsored cooperatively by the National Park Service and the Office of Legal Education, Executive Office of United States Attorneys, and Criminal Division of the Department of Justice. The course consists of introductions to the law, practical problems based on recent significant case histories, and field visits to acquaint attorneys with archeological resources and the effects of damage caused by looting and vandalism.

The case histories were presented by the Assistant United States Attorneys who prosecuted each case. The cases selected served to illustrate effective courtroom strategies and pre-trial preparation, use of expert witnesses, appellate implications, and approaches to illegal commercial trafficking.

One session of the course which helped explain the purposes of archeological protection was presented by Terry R. Lord, who is Principal Deputy Chief, General Litigation and Legal Advice Section, Criminal Division, Department of Justice. He draws attention to legislative objectives in the enactment of the Archaeological Resources Protection Act, which encourage public understanding of the cultural past through preservation of cultural places. In referring to the protection of one type of archeological site, Civil War battlefields, he provides a perspective on the need for successive generations of people in a society to rediscover themselves.

citizens who are striving to make our lives and the lives of those coming after us more rewarding. We must first of all believe deeply in the purpose behind the laws we are seeking to uphold to be effective prosecutors of those who would violate those laws. The Antiquities Act, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act all have as their underlying theme the concept of preserving the past, for as Lorrie Northey states in her article appearing in the *Harvard Environmental Law Review*, “archaeological resources offer a glimpse of vanished cultures and some understanding of the relationship between the past and the present.” Congress enacted ARPA to secure for our present and future benefits of the American people, and for the protection of archeological resources sites which are on public lands and Indian lands. In fact, the legislative history of ARPA is replete with expressions of hope that the next decade will witness a new era of cooperation between private individuals and the government in preserving our archeological resources.

In order to promote such a cooperation, all of us in the citizenry must understand the importance of what we are preserving. Self-understanding of ourselves as individuals and our roles in society comes from a knowledge of where we came from. Our archeological resources offer a connection to the past which in effect is a road map to our future.

(Preserving—continued on page 24)

Although our country's history is often viewed in terms of political history—that is to say, who were our leaders? What laws did they pass? What wars did they get our country into and out of?—but in a larger sense the political history is only the outward manifestation of the actions and ideas and values of the people. What people believe, values, ideals, and aspirations must be interpreted and carried forth to our posterity and the only way that the transition can be made is to preserve and protect our historic sites and archeological resources which enable a more accurate interpretation of the past. There have been instances in history when nations have chosen to rebuke the gifts of past generations, to nullify the knowledge and ideals of prior cultures. But to deny the benefit of cultural understanding by failing to promote the preservation and protection of resources which offer that understanding is to deny the present generation its natural growth toward self-understanding. We are here at this conference to gain a better understanding of the laws which our country has enacted to help us protect our historical and archeological resources, laws which enable us to accept the gifts of past generations. The vigorous enforcement of these laws shows our appreciation for our heritage and further demonstrates our pursuit to bestow the blessings of our best cultural ideals on present and future generations. It is at great peril that we not protect such resources. There have been horrible consequences when a nation or government has rebuked its own cultural gifts from the past which in essence is a rejection of natural growth toward its real values. The horrors of Nazi Germany were caused by many factors and among them, not the least of which, was the rejection of a wealth of cultural background which had up to that time made Germany among the most enlightened civilizations of the world. Germany

attempted to rewrite its history and reject its rich cultural background in literature, music, philosophy, and science.

In our own country, we inherited from our forefathers the concepts and principles of liberty, freedom, equality, and a work ethic that promotes a spirit of industry and creativity. But there was a part of our society that believed strongly that the pursuit of happiness and the right of property necessitated the subjugation of a race of people; thereby depriving an entire body of our nation the basic right to freedom and equality. A great Civil War ensued causing the most wide spread destruction that our nation has ever experienced.

And from that war, our country again had to make a transition to a more democratic nation by accurately describing the true meaning of the Civil War. Our Civil War battlefield sites provide us with a part of that understanding; they are the evidence of a great legacy of individual heroism and sacrifice. We absolutely must protect such sites in an effort to give more accurate interpretation to our nation's history. In the words of the late poet laureate, Robert Frost, from his poem, "The Generations of Men":

*"...Nothing would do but they must fix a day;
To stand together on the crater's verge
That turned them on the world, and try to fathom
The past and get some strangeness out of it."*

This sense of time, the awareness that countless others have come before us and that others will follow in endless generations, distinguishes men from other animals. And with this discovery of the meaning of death—that man's own life is limited, life is given added meaning, because we have given description to the past.

Terry Lord is Principal Deputy Chief, General Litigation and Legal Advice Section, Criminal Division, Department of Justice.

From the Editor...

This past year has been extremely productive for *CRM*. To date we have published 11 issues and there are two more scheduled for release by the end of 1993. With a full year of issues nearly behind us, it is time to line up articles and plan issues for 1994. As in the past, the editor welcomes feature articles and news items, as well as ideas for thematic issues. Listed below are the thematic issues proposed for next year. If you wish to contribute articles for any of these issues, or if you have ideas for topics to be included, please contact the editor of *CRM* as soon as possible.

Themes

African American history

Local preservation programs

National Register of Historic Places

Cultural/historic landscapes

International maritime preservation

Outdoor sculpture and monuments

In addition to the thematic issues, we expect to publish a minimum of four other issues containing a variety of feature articles and news items. Your ideas are needed.

Reader Survey

We are tabulating the responses to our recent reader survey (*CRM*, Vol. 16, No. 7) and will report on the results in a later issue. Although the due date has passed, we are still interested in receiving your responses.

If you have not returned the "Mailing List Update" portion of the Survey, please do so as soon as possible. If you have not responded by the end of this year, your name will be removed from the mailing list.